

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DEUTSCHE BANK NATIONAL  
TRUST COMPANY,

Plaintiff,

v.

BRENDA MARSHALL,

Defendant.

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Civil Case No. 08-CV-10550

PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

**ORDER DISMISSING CASE**

The Court has reviewed the Defendant's Removal and attached state court pleadings and finds it lacks subject matter jurisdiction over this claim.

Pursuant to Fed. R. Civ. P. 12(h)(3), if the Court "determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." In the instant action, Defendant Brenda Marshall has failed to show that she removed the action from state court within 30 days of "after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading . . . ." nor could she, as Defendant is attempting to remove a case pending appeal. 28 U.S.C. § 1446(b) (emphasis added). Further, Defendant failed to attach the original state court pleadings and has only attached her "complaint/brief" filed on appeal. Such a removal is improper and as a result the Court lacks subject matter jurisdiction over this on-going state action.

Therefore, the Court **DISMISSES** the instant action for lack of subject matter jurisdiction.

**SO ORDERED.**

s/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: February 29, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on February 29, 2008.

s/Denise Goodine

Case Manager